

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Paul Gary Wilson, <i>et al.</i> ,	:	
Plaintiffs	:	Civil Action 2:12-cv-01203
v.	:	Judge Graham
Columbia Gas Transmission, LLC,	:	Magistrate Judge Abel
Defendant/Counterclaimant	:	
v.	:	
Exclusive Natural Gas Storage, Easements, <i>et al.</i> ,	:	
Counterclaim-Defendants	:	

Report and Recommendation

This matter is before the Magistrate Judge on Columbia Gas Transmission, LLC's ("Columbia Gas") motions for default judgment (docs. 464, 470, 476, 483, 496, 508, 511, 522, 528, 531 and 549).

Numerous motions to dismiss the counterclaims remain pending before the Court. Plaintiffs maintain that Rule 13 of the Federal Rules of Civil Procedure does not permit counterclaims against unnamed members of a putative or certified class because they are not opposing parties and therefore not subject to Rule 13 compulsory or permissive counterclaims. The pending motions to dismiss are a better mechanism for

deciding this issue. Columbia Gas may renew its applications for entry of default and motions for default judgment in the even that the Court denies plaintiffs' motions to dismiss the counterclaims. Until that time, the Magistrate Judge RECOMMENDS that Columbia Gas's motions for default judgment (docs. 464, 470, 476, 483, 496, 508, 511, 522, 528, 531 and 549) be DENIED.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v. Arn*, 474 U.S. 140, 150-152 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Willis v. Sullivan*, 931 F.2d 390, 401 (6th Cir. 1991).

s/Mark R. Abel
United States Magistrate Judge